

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: January 19, 2010
Time: 11:00 a.m.

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In re:

BECALEL EDELSTEIN and
SUSAN EDELSTEIN,

Chapter 13
Case No.: 109-50349-608

Debtor(s)

NOTICE OF MOTION

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SIRS / MADAMS:

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the 19th day of JANUARY, 2010 at 11:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§ 521 & 1307(c), dismissing this case by reason of the debtor(s)' failure to submit monthly pre-confirmation payments, failure to provide and/or file documents, failure to be examined at §341 meeting of creditors, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than five (5) days prior to the return date of this motion.

Dated: Melville, New York
December 22, 2009

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
135 Pinelawn Road, Suite 120 South
Melville, New York 11747
(631) 549-7900

To: Office of the United States Trustee
David Carlebach, Debtors Attorney
Becalel Edelstein, Debtor
Susan Edelstein, Debtor
GE Money Bank, Creditor

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

BECALEL EDELSTEIN and
SUSAN EDELSTEIN,

Debtor(s)

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TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

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Chapter 13
Case No.: 109-50349-608

APPLICATION

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate,
respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on November 20, 2009, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of the date of this motion, the debtor(s) has failed to submit any monthly pre-confirmation payments to the Trustee.
3. In addition, as of this date the debtor(s) has failed to file copies of pay statements from employer for sixty (60) day period preceding filing, within the fifteen (15) day period required under the Bankruptcy Code.
4. Furthermore, as of this date the debtor has failed to provide the Trustee with copies of previous year's State and Federal Tax Returns; all filings required under Section 521; and all mandatory disclosure documentation as set forth in Local Bankruptcy Rule 2003-1.
5. Moreover, the debtor failed to be examined at the initial §341 meeting of creditors, held on December 16, 2009 at 10:15 a.m.
6. This is a material default and is prejudicial to the rights of the creditors of the debtor.

WHEREFORE, the Trustee prays for an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Melville, New York
December 22, 2009

/s/ Michael J. Macco
Michael J. Macco, Chapter 13 Trustee
135 Pinelawn Road – Suite 120 South
Melville, New York 11747
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

MARY E. FERRO, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On December 22, 2009, deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

TO: Office of the United States Trustee
 United States Bankruptcy Court
 271 Cadman Plaza East, Suite 4529
 Brooklyn, NY 11201

David Carlebach, Esq., Debtor's Attorney
40 Exchange Place, Suite 1306
New York, NY 10005

Becalel Edelstein,
Susan Edelstein Debtor
1159 East 28th Street
Brooklyn, NY 11210

GE Money Bank, Creditor
c/o Recovery Management Systems Corp.
25 SE 2nd Avenue, Ste.1120
Miami, FL 33131-1605

/s/ **Mary E. Ferro**
MARY E. FERRO

Sworn to before me this
22th day of DECEMBER, 2009

/s/ **Janine M. Zarrilli**

NOTARY PUBLIC

Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires September 8, 2013